

1
2
3
4
5
6
7 NOT FOR CITATION

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 FIKRI BAYRAMOGLU,

13 Plaintiff,

14 v.

15 UNITED STATES OF AMERICA,

16 Defendant.

17 Case Number C 05-1897 JF (RS)

18 ORDER¹ RE PLAINTIFF'S
19 DOCUMENTS FILED JUNE 9 AND
20 JUNE 20

21 [re: doc. nos. 34, 35]

22 Plaintiff Fikri Bayramoglu, a state prisoner proceeding *pro se*, filed this action in the
23 Small Claims Division of the Monterey County Superior Court on April 1, 2005, alleging that the
24 United States Postal Service destroyed two items of insured mail and lost two other items of
25 insured mail. Defendant subsequently removed the action to this Court. On January 12, 2006,
26 the Court granted Defendant's motion to dismiss without leave to amend; the Court dismissed
27 Plaintiff's tort claims with prejudice and dismissed Plaintiff's contract claims without prejudice
28 for failure to exhaust administrative remedies. In the same order, the Court denied Plaintiff's
motion for appointment of counsel and motion for summary judgment. The Court denied

1 This disposition is not designated for publication and may not be cited.

1 Plaintiff's motion for reconsideration by order dated April 4, 2006.

2 The docket reflects that Plaintiff filed a notice of appeal on May 22, 2006 and that a
3 request for payment of docket fee was mailed to Plaintiff on June 1, 2006. On June 9, 2006,
4 Plaintiff filed a document directed to the Court of Appeals, requesting an order forcing this Court
5 to remove Defendant's attorney (apparently on the theory that it is unfair to permit Defendant to
6 have representation when Plaintiff has been denied appointment of counsel) or, alternatively,
7 forcing this Court to appoint counsel for Plaintiff. This document also requests that Plaintiff be
8 permitted to proceed *in forma pauperis* and reargues legal issues previously decided by this
9 Court. On June 20, 2006 Plaintiff filed another document directed to the Court of Appeals,
10 stating that he will *not* pay the filing fee for his appeal and noting “\$455.00 DOCKET FEE?
11 BUMPED YOUR HEAD?!”

12 It does not appear that Plaintiff is requesting any relief from this Court, as both the June
13 2006 documents are directed to the Court of Appeals. To the extent that Plaintiff is requesting
14 that this Court grant him leave to proceed *in forma pauperis* or appoint of counsel, those requests
15 will be denied. Plaintiff has not provided financial information in support of his request to
16 proceed *in forma pauperis* as required by Federal Rule of Appellate Procedure 24, and has not
17 demonstrated that any of his claims have potential merit. Moreover, while the Court has
18 discretion to request counsel to provide *pro bono* representation in “exceptional” cases, *see*
19 *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991), Plaintiff has not demonstrated that this is
20 an exceptional case, at least in the sense contemplated in *Terrell*.

21 Accordingly, to the extent that Plaintiff is requesting relief from this Court, such relief is
22 DENIED.

23 IT IS SO ORDERED.

24
25 DATED: 7/18/06


26 JEREMY FOGEL
27 United States District Judge
28

1 This Order was served on the following persons:

2
3 Fikri Bayramoglu

4 C-54604

5 P.O. Box 689
Soledad, CA 93960

6 Kevin V. Ryan
United States Attorney
7 450 Golden Gate Avenue
P.O. Box 36055
8 San Francisco, CA 94102

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28